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IMPLEMENTATION OF THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Third periodic reports submitted by States parties under articles 16 and 17 of the Covenant*

Addendum

ITALY

[17 October 1997]

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* The second periodic report concerning rights covered by articles 1 to 15 (E/1990/6/Add.2) submitted by the Government of Italy was considered by the Committee on Economic, Social and Cultural Rights at its seventh session (see E/C.12/1992/SR.13, 14 and 21).

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INTRODUCTION

1. The present report by the Italian Government on the International Covenant on Economic, Social and Cultural Rights, made in accordance with the terms of the said Covenant, is intended to cover the period 1991-1996.

2. As on previous occasions, the report has been prepared by the Inter-Departmental Committee for Human Rights established in 1978 by the Ministry of Foreign Affairs. The Committee in question is made up of representatives of the departments most closely concerned with the matters covered by the Covenant, together with representatives of some NGOs and a number of experts and specialists.

3. The previous report, as well as its oral presentation and discussion and the written answers given to specific questions raised by the ad hoc Committee, have already given a full picture of the effective respect and application of the principles and rules of the Covenant in Italy.

4. The Italian political scene has undergone some very radical changes in the period time considered by the present report. The political elections of 1994 led the coming into office of a centre-right Government. Following the end of the so-called "First Republic", many new political forces formed part of the government coalition, among them "Forza Italia", "Alleanza Nazionale" and "Lega Nord". However, the new Government, considered the first of the "Second Republic", had a very short life, its resignation being caused by various factors, of which the most decisive was the fact the "Lega Nord" withdrew its previous support. A new Government was then constituted with the participation of independent experts to hold the fort until new elections, which were eventually held in April 1996. The main political parties grouped into two coalitions: the centre-right "Pole of Liberties" (consisting of Forza Italia, Alleanza Nazionale, Centro Cristiano Democratico and Unione Democratico Cristiana) and the centre-left Olive-Tree Coalition (formed mainly by the Partito Democratico della Sinistra and Partito Popolare Italiano, with the external support of Rifondazione Comunista). The latter coalition proved successful in gaining the day and was therefore called to form the new Government. It includes, among others, a number of quasi-independent experts, who were called to office on account of their specific competence in some key sectors.

5. The suggestions and concerns expressed by the ad hoc Committee in its final conclusions on the previous report have been made the object of a thorough examination by the Italian Government and by the branches of the administration more directly concerned with the various aspects of human rights.

Article 3

6. During the period considered by the present report, the policy of the Italian Government in matters of equal opportunity was distinguished by a number of significant interventions undertaken to realize specific goals in the field of employment.

7. From an institutional point of view it is of particular interest to mention that the various organs and agencies already existing in the Italian system have now been supplemented by a Committee for the Study of Equal Opportunity under the aegis of the Supreme Council of the Magistrature (deliberation of 22 October 1992). The Committee's terms of reference envisage two principal tasks: to carry out an analytical study of professional careers in the magistrature that are differentiated according to sex and the extra-work situation of the individuals concerned. This is to identify the initiatives necessary to eliminate the de facto disparities with a view to overcoming every working situation that involves differentiated effects for employees of different sex and to facilitate a rebalancing of family and professional responsibilities by means of appropriate restructuring of work organization.

8. The Committee has already drawn up a number of proposals for the further consideration of the Supreme Council of the Magistrature. These proposals concern: first assignment location as magistrate (or auditor) to safeguard the rights of judges who are mothers; participation of women in predominantly male study meetings; choice of rapporteurs for study meetings and commissars for adjudging competitive job assignments with a view to encouraging the presence of women in these offices; assignment of individual cases, executive offices and positions as Councillors of the Court of Appeal to women.

9. A particular sector that attracted the attention of the Committee concerned maternity leave, which was tackled from two distinct points of view: the possibility of substituting the absent women (a theme that is to be dealt with by the Ministry of Labour at the end of 1997); and the entitlement of women to perform functions that are compatible with their particular needs during the period of pregnancy and the first year of the child's life and thus avoiding their having to request leave of absence. This has negative effects on both the professional growth of the individuals and the organizational structure of the office in general.

10. Over and above the setting up of the aforesaid Committee, one should here underscore quite generally the commitment of the Italian Government to reformulating its policy in the work sector. The subsequent paragraphs will therefore be dedicated to examining the more important government initiatives taken in connection with the principle of equal opportunity.

11. The regulation of labour relationships developed for the most part in line with the needs of giving effect to the contents of ILO Conventions No. 100 (on equal pay) and No. 111 (on discrimination - employment and profession).

12. As far as normative aspects are concerned, mention should be made of Law No. 125 of 1991 ("Positive actions for the realization of man-woman parity at work"), which had the primary purpose of recognizing the presence of women in the labour market both quantitatively and qualitatively. Particular intervention measures are envisaged for the attainment of this goal:

- the so-called positive actions (arts. 2-4) designed to increase the number of women in the sectors in which they are strongly

under-represented and to facilitate both training routes and forms of labour organization that make it possible to conciliate professional and family responsibilities;

- the National Parity Committee (arts. 5-6), which has been given the task of assessing the aforesaid positive action projects by means of the use of specific orientative criteria envisaged in the three-year programme 1995-1998 and the European Union's fourth medium-term programme 1996-2000; and

- the parity counsellors (art. 8), who are to act at all levels of the Commission for Employment (local, regional and central) and with powers that have been considerably amplified as compared with the previous discipline: they now have a deliberative vote, can act before the courts with a view to eliminating discriminatory acts and behaviour of a collective or an individual character, and are in a position to acquire any and all information useful in connection with the employment situation of men and women, and the state of professional hirings, training and promotion.

13. The aforesaid law also introduces a number of new juridical elements: the concept of indirect discrimination (art. 4), the procedure of partial inversion of the burden of proof in court cases brought by women workers in matters of discrimination (art. 4), the obligation to provide information placed upon the employer, realized by means of the preparation of a biennial report on the personnel situation, with application of penalties in case of non-observance (art. 9).

14. A report prepared by the National Parity Committee on the theme of the concrete and effective application of Law No. 125 of 1991 outlined above affirms that the principles enunciated by the said law are still valid three years after its coming into force, but that it has not yet been fully applied on account of the lack of adequate financial, administrative and institutional resources. This situation has produced a number of consequences:

- within the ambit of the positive action projects, there has been a very marked drop in the number of projects submitted, and a situation of considerable difference in the numerical ratios between the submitted and approved projects in the north, centre and south of Italy; the Committee also noted an evident difference between the far more frequently adopted training projects and the other categories of interventions;

- as regards the National Parity Committee itself, the Committee underscored the fact that its role of coordination and link between the Ministry of Labour and the other bodies and institutions at work in the equal opportunity sector is subject to a steady decline;

- as regards the activities of the parity counsellors, the Committee notes a concrete downturn of their interventions and therefore a shrinking of their role; this was due for the most part to the very small number of appeals effectively submitted.

15. The next intervention in the equal opportunity field to be mentioned here is the agreement concluded between the social parties and the Italian Government on 23 July 1993. A detailed overview of the agreement in question, which assumes particular importance in connection with the right to work, will be found as part of the comment of article 6 of the Covenant. The comment makes explicit reference to the dispositions contained in the previously mentioned Law No. 125 and a subsequent enactment, namely Law No. 215 of 25 February 1992, "Positive actions to promote female entrepreneurship", because these two laws are deemed to be fundamental instruments for the full and complete implementation of the parity condition between men and women in labour relationships. The preamble to the agreement mentions the numerous problems encountered in the past in the matter of employment of women and equal opportunity in the world of work. It therefore goes on to underscore the need for a serious commitment to render implementation of the present legislation full and complete, envisaging the use to this end of additional legislative and contractual instruments and the enlargement of the financial measures already partially operative in this field.

16. For the purpose of guaranteeing effective progress in the field of equal opportunities and thus ensuring a parity position for women in society, and especially in the world of work, considerable importance is also attached, over and above the interventions already noted above, to the adoption of other measures that seek to regulate other aspects of the matter under consideration.

17. Among the principal measures of this type we would recall the preamble to the Labour Agreement signed on 24 September 1996 and the commitment to receiving the EU directive on working hours expressed on that occasion; the adaptation by the Government of two other important community directives with a view to bringing them into line with Italian order, No. 96/34/EC of 3 June 1996 concerning the framework agreement for parenthood leave and No. 92/85/EEC concerning the improvement of the safety and health of pregnant workers and women in the immediate post-partum period and while still breastfeeding their children; and the numerous opinions expressed by the Examining College of the National Parity Committee intended to promote and implement the parity policies at the local level and the intention of establishing equal conditions of treatment and remuneration for men and women in specific sectors.

18. The more interesting of these opinions merit being set out here precisely with a view to confirming the validity of the interventions that have been made in various work environments. As regards the corps of urban vigilators (the Italian non-criminal urban police force, concerned mainly with traffic duties), there is the opinion dated 11 February 1994 asserting a violation of the prohibition of direct discrimination; as regards the psycho-physical requisites for being allowed to compete for the qualification to serve in the fire brigade there is a similar opinion asserting a violation of the prohibition of indirect discrimination dated 21 April 1994. As regards the role of seasonal women workers and their abstention on the grounds of maternity, the opinion of the college is in favour of their right to have the hiring recognized and to be entitled to payment of the indemnity even in the absence of an effective work relationship at the time they commence their obligatory abstention. Finally, as regards progress in the career of flight

assistants, there is the opinion of the college dated 12 September 1996. The opinion dated 12 April 1996 deals with working mothers, voluntary abstention from work and career progress (be it automatic or otherwise).

Article 6

19. The thematics of the right to work, regulated by article 6 of the Convention and article 23 of the Italian Constitution, have been accorded the greatest attention in the period considered by the present report. Various factors, many common to almost all European countries, have in fact led to a disconcerting increase of the unemployment level. The Italian Government has therefore been called upon to commit itself, intervening in this matter and adopting appropriate normative and administrative instruments to reduce the unemployment rate afflicting the population of our country.

The right to work

20. The line followed by Italian political action in the matter of access to work has led to the drawing up and the subsequent stipulation of two fundamental documents: the Agreement on Work between the Government and the Social Parties concluded on 3 July 1993 and the subsequent agreement stipulated between the same parties on 24 September 1996. Both documents attribute particular importance to the phenomenon of unemployment, which has now assumed very serious proportions in the southern parts of the country, whence the need for facing it by means of a rational and simplified concertation action. This action will have to take the form of an adequate integration between macroeconomic policies, labour market policies and specific employment policies. Recourse to the instrument of an agreement between the social parties represents of itself an innovation in Italian practice that makes it possible to define a political orientation on the basis of a prior understanding between the parties directly concerned.

21. Side by side with the aforesaid agreements, which will be examined in greater detail below, mention should here be made of a document produced by the Ministry of Labour and likewise published in September 1996. In coming to grips with the unemployment problem, this document places the accent on the urgency of a reorientation of the economic system by means of an intensive mobilization at both the central level (with government support amounting to not less than 1 per cent of GDP) and in the peripheries; this mobilization must not assume an assistence character, but must rather seek to maximize employment. In this connection the fiscal lever was identified as one of the indispensable instruments for the attainment of these objectives, with a view to underscoring the need for a constant relationship between legality, entrepreneurship and employment.

22. These interventions, moreover, had to be realized and are still being realized in conformity with the guidelines established at the Community level in connection with both the convergence objectives set out in the Maastricht Treaty and the Delors White Book ("Growth, Competitiveness and Employment. The challenges and the roads to be followed on the way into the XXIst century") submitted by the Commission to the European Council in Brussels in December 1993.

23. Coming back to the agreements stipulated in 1993 and 1996, it is as well to underscore the presence of a number of differences of both text and content.

24. The 1993 agreement envisages a twofold basis for action:

- involvement of the trade union representatives can be obtained either in the traditional manner by means of the stipulation of a collective national-level agreement or, alternatively, by means of the intervention of a different collective subject to be identified either within the particular intervention sector or on a territorial basis;

- moreover, ever greater importance is being attributed not only to training and recruiting workers from among the young generations, but also to the need for providing greater incentives for the development of research and technological innovation.

25. The 1996 agreement, on the other hand, presents a more rational and detailed structure in coming to grips with the right to work; in fact, starting from the extraordinary financial allocation envisaged for the programme to be implemented in the two-year period 1998-1999 (9,000 billion lire for the active employment policy, 1,550 billion lire as resources deriving from the fight against tax evasion and the privatization of State property), this document faces up to the topic of employment by means of a far-ranging analysis that considers all the various aspects of the labour relationship. The text of the agreement accords particular prominence to two elements: working hours, in connection with which it envisages the possibility of an intervention to reduce them to 40 hours per week, and employment contracts for a limited period of time (in accordance with a model that also envisages its transformation into ordinary employment for an indeterminate period of time) when certain special conditions are satisfied.

26. As agreed with the social parties by the stipulation of the 1996 agreement, the policy programming plan of the Italian Government must be adopted with a view to implementing a valid overhaul of the entire matter of labour agreements and to introduce specific regulations for particular sectors: training, research and innovation, promotion of employment, infrastructure policy and qualification of public demand, area agreements.

Training

27. If an efficient national education and training system is to be constructed, it is essential to raise the school-leaving age to 16 and to confirm the right to training and formation until 18 years of age, and of the school system and the territorial and specific extra-school formation system; so-called ongoing training, which aims at updating the competencies and professional grasp of individual workers, thereby rendering the concept of employability active and practical; intense participation of the social parties, not least on the basis of a possible renewal of the institutional training and formation structures; inter-institutional coordination (state, regions, local authorities); permanent monitoring of the quantity and quality of the available training facilities; relaunching of research.

Research and innovation

28. In this field the agreement envisages the intervention of both private parties and the public (through an appropriate task force to be set up at the level of the Prime Minister's Office). In particular, this intervention is to be coordinated with the project for reorganizing the research agencies and the proposed introduction of automatic mechanisms for investing in research, thus ensuring an adequate growth of resources (involving a three-year expenditure equal to 2 per cent of GDP).

Promotion of employment

29. Promotion of employment represents one of the fields in which the Italian Government will have to concentrate its efforts with a view to assuring that Italian citizens of working age will have the possibility of entering or returning to the world of work. Italian political action is to be realized with the following aims:

- development and modernization of the production system in an ecologically sustainable process thanks to a network of services coordinated by a national agency. This project is still being prepared in collaboration with the volunteer and non-profit organizations;

- support for the entrepreneurship of small and medium-sized enterprises; it is in this direction that it is proposed to conduct the negotiations with the European Commission for reordering the aid provided for the hiring of workers by enterprises belonging to particular categories and operating in particular parts of the country, especially in the areas of southern Italy and in the declining industrial areas of northern and central Italy;

- greater guarantees of flexibility, this with a view not only to favouring rules and practices capable of facilitating contact between enterprises and workers and consequently employment, but also ensuring balance in the protection of permanent and temporary workers;

- attention to the employment incentives system in the passage from passive welfare to workfare; this new action hypothesis is basically intended to improve the polyvalence and professional renewal of the labour force;

- as already underscored in the comments regarding article 3 of the Convention, implementation of the equal opportunity principle: this could be achieved primarily via a rebalancing of the employment rates and the professional mix among men and women, not least in relation to the policy for developing entrepreneurship;

- confirmation of greater transparency of the rules that regulate the employment market;

- reduction of indirect labour costs, which in general principle is to be realized by means of the transfer of the employer's health contribution to the general tax fund.

30. The 1996 agreement clearly concentrates its attention on hypotheses of interventions designed to facilitate employment, but attempts were also made to delve more deeply into possible procedures for encouraging employment to be realized in favour of both youngsters in search of their first job and the unemployed who have been out of work for a long time, thus furnishing a more complete and exhaustive picture of the overall problem.

31. These procedures and the contractual figures deriving therefrom can be pinpointed and described as follows:

- forms of apprenticeship: this type of contract is intended for subjects comprised within an age group ranging from 16 to 24 years for the whole of the national territory, but from 16 to 26 years in the south of Italy; these contracts may have a duration varying from 18 months to 4 years;

- part-time work: part-time work has assumed an altogether particular position in recent Italian normative production, since it is considered to be one of the most important instruments in the work sector and capable of satisfying the needs of particular categories of workers; it is therefore thought that it should be encouraged by means of differentiated contribution rates and the introduction of additional tax facilitations and is intended primarily for young people on the occasion of their first insertion in the world of work, women who return to the labour market after a long absence and older people who wish to retire gradually from employment (though in this case subject to the condition that they are replaced by young people);

- internships: this contractual relationship is realized by means of polyvalent training and orientation with a view to facilitating first contacts between young people and enterprises;

- continuous training: two types of intervention are envisaged within the ambit of continuous training, both intended to facilitate the stipulation of labour contracts along these lines: gradual and integral attribution of the contribution of 0.30 per cent of the total remuneration and the drawing up of annual plans;

- permanent training: this type of situation is to be encouraged by means of extending the labour-training contract for a third year in the areas of southern Italy; the aforesaid procedure is however limited to cases of stabilization of the labour relationship upon expiry of the second year, even though in such cases continuation of both the incentives and the original contractual conditions is to be confirmed for the third year;

- temporary work: this term is intended to refer to a labour relationship at the disposal only of qualified agencies who are subject to the supervision of the competent authorities within the ambit of the particular sectors and in accordance with the principles envisaged by the agreement. They involve the conclusion of contracts for either a limited or an indeterminate period of time; consideration has already been given to the possibility of utilizing this form of work also on an experimental basis in the agricultural sector and the building industry;

- instruments intended to encourage the reduction and remodelling of working hours: within the more general framework of the implementation of the proposed working hour modifications, the adoption of instruments of this type is intended to bring in its wake a reduction of the social security burden to be borne by workers, this also in conformity with the provisions of EU Directive No. 93/104 regarding working hours, and the redistribution of the contribution rates on the basis of four distinct weekly time ranges;

- socially useful work: in this specific sector the agreement envisages the development of projects and initiatives for economic activities concerning particular intervention areas, including (purely by way of example): reclamation of depressed industrial areas, safeguarding hydrogeological conditions, environmental rehabilitation, depollution and elimination of the asbestos risk, protected areas, natural parks, cultural assets in general;

- new employment services: the aim here is to intervene in the redefinition of the role of the public labour exchange system and its institutional decentralization by transfer to the regions, but subject to State intervention for the purposes of regulation, orientation and programming; at the same time it is envisaged to open the market to private subjects; the whole with a view to promoting an efficacious encounter of labour supply and demand;

- reduced social security contributions and fiscal facilitations: proposals in this area envisage in general: transfer of the national health contributions to the general fiscal fund, contribution reductions to be implemented in southern Italy in respect of hirings in 1997 for an indeterminate period of time, and exemption from the payment of company tax or the tax on income deriving from the exercise of the arts or the professions for a period of two years for particular categories of "new employers";

- immigration policies: these policies are to be realized by means of the socio-economic integration of the immigrants, which is to be achieved, above all, in the sectors of housing, professional training and employment and socio-cultural insertion, and by means of monitoring and socio-structural surveys of workers in the Italian labour market who do not come from member countries of the EU;

- free circulation of workers within the European Union and mobility vis-à-vis other countries: this is realized by means of respect and correct application of the Community regulations and the development of the Eures system;

- strengthening obligatory job transfers: this instrument must be realized in conjunction with the decentralization of a number of competencies and speedy handling of requests deriving from the gradual manner in which the general labour discipline is to be applied to employers who were formerly public agencies.

32. Still in connection with the phenomenon of growing unemployment and the consequent need for urgently encouraging measures that seek to promote employment, it is particularly interesting to note the series of statistical surveys realized by the Labour Market Observatory set up within the Ministry of Labour and Social Security. These statistical surveys, which are reproduced in the various tables attached to the present report, were carried out between January 1995 and the beginning of 1997; these analyses made it possible to draw a significant picture of the trend of a number of particularly important phenomena, especially the number of workers registered at the labour exchanges, the number of youngsters who took up their first job, the number of employed workers and those who are in search of jobs, the number of workers with a training, part-time and apprenticeship contract.

Infrastructure policy and public demand qualification

33. With a view to ensuring a positive implementation of this policy and therefore also a sure and competitive economic and employment growth, the proposals envisage not only a different type of intervention by the public administration, but also the involvement of the local productive forces in the endeavour of reducing the differences in infrastructure equipment between northern and southern Italy.

34. The action sectors for which the general policy outlines established by the Italian Government envisage a particular type of intervention are as follows:

- public works: it is proposed that a number of the principal ongoing projects be completed: urban rehabilitation programmes are to be drawn up in accordance with Law No. 179/1992, the extraordinary building programme of Law No. 203/1991 and the activation of Law No. 183/1989 regarding soil defence and the reorganization of the water supply, sewerage and sewage disposal services as envisaged by Law No. 36/1994;

- transport: as regards this sector, the 1996 agreement envisages the creation of an independent Transport Authority that is to have the task of regulating the quality, safety and cost of services;

- environment: in the environmental field it is proposed to activate two action plans: one of these is constituted by the stipulation of a plurality of programme agreements between the regions, social forces, environmentalist associations and network

operators, while the other is intended to ensure the complete utilization of the financial means - about 3,200 billion lire - made available by the three-year plan for environmental protection 1994-1996. Over and above this, the Ministry has committed itself to rendering the body competent for ecological quality operative before the end of 1996 and, further, to facilitate compliance with the procedure for evaluating the environmental impact of production processes;

- energy: the agreement also lays down the principal objectives of energy policy: simplification and streamlining of the procedures, further expansion of the electricity sector, the methane distribution system, the renewable sources and petrol (gasoline) distribution; it is proposed to allocate some 13,000 billion lire to investments for the realization of these goals;

- informatics society: in this case the agreement entrusts the direct management of the informatics society to the Government, who will be required to intervene for the following: definition of a regulatory framework and the institution of an independent sectoral authority, qualification of public demand, support for research and development activities, training in basic informatics and further formation, coordination between national and international activities.

Area contracts

35. The Prime Minister's Office has been entrusted with the task of identifying the "areas with the lowest growth rate and the greatest employment tensions" in southern Italy, this with a view to facilitating new employment and new productive investments with particularly favourable conditions as far as bank credit is concerned and on the basis of agreements to be stipulated between the interested subjects.

Technical and professional orientation and training programmes

36. Article 3 of the Covenant pinpoints the need for adopting adequate measures within the ambit of the orientation action and intended to assure full employment of the productive resources; in complying with these indications, the Italian Government has borne in mind the essential principles subsequently set out in the 1996 agreement, which were rendered operative by means of two legislative enactments, Law No. 236 of 1993 and Law No. 608 of 1996.

37. Article 1 of Law No. 236 of 19 July 1993 envisages the creation of a fund for employment and the implementation of extraordinary measures of active labour policy intended to sustain employment levels in crisis areas. For a period of three years these measures envisage the provision of incentives for employers in respect of every full-time worker employed over and above the number of such workers employed on 30 May 1993.

38. With a view to realizing the implementation of the said law and adequate management of the fund referred to in article 1 of the law, the Ministry of Labour has been entrusted with the following tasks:

- determination of the intervention areas that are to benefit from the fund, to be indicated by means of an appropriate decree drawn up by the Minister of Labour in agreement with the Minister of the Treasury, after hearing the regions and the proposals of an appropriate Committee charged with coordinating the initiatives in favour of employment;

- determination of the prerequisites of workers who may be considered for these benefits, forms for applying for the contributions, terms and modalities for the payment of the benefits, in each case by means of a decree of the Minister of Labour drawn up with the Minister of the Treasury and after having heard the more representative trade union organizations;

- issuing the criteria for benefits and authorization of the expenditure connected therewith;

- stipulation of conventions with municipal consortia, companies, cooperatives and private groups, as also with the managers of mutual funds for the promotion and development of cooperation, for the design of models and instruments for actively managing mobility and the development of new employment and evaluating the feasibility of the Ministry of Labour's own projects;

- proposing, jointly with Minister of Industry, criteria and modalities for utilizing such sums as may be available in the fund, the said criteria and modalities to be eventually adopted by means of a decree of the Prime Minister;

- in agreement with the Minister of Industry, using for the proposed intervention either industrial promotion companies in which the State has holdings or joint-stock companies deriving from the transformation of management bodies of state holdings or from dissolved management bodies.

39. Article 1 bis of Law No. 236 establishes that a part of the fund is to be dedicated to the development of new enterprises for young people (in Italian, "nuove imprese giovanili".) in the sectors of cultural assets, tourism and maintenance of civil and industrial works in the regions of southern Italy, as also in the sector of social and assistance services at home and personal assistance for the handicapped or old people who are no longer self-sufficient.

40. Article 1 then envisages the institution of a further fund for the development and realization in crisis areas of new programmes for reindustrialization, for the realization of measures for the creation of new production initiatives and for conversion of the productive apparatus, and also for subsidizing development actions at the local level. Paragraph 3 of article 4 provides that any employer who does not have suspended workers in

his business or has not reduced his personnel in the preceding 12 months, or any employer who takes on a worker registered in the mobility lists on a full-time basis and for an indeterminate period of time, shall have the possibility of obtaining a monthly contribution equal to 50 per cent of the mobility indemnity that would have been paid to the worker. This is reduced by three months on the basis of the age of the worker at the time of being taken on or admitted.

41. Law No. 608 of 28 November 1996 entrusts the public administrations, as also companies with a predominance of public capital and other subjects to be identified by means of a decree of the Minister of Labour, the task of promoting projects that are socially useful for the attainment of objectives of an extraordinary character. These projects must involve workers who have been registered for more than two years in the first class of the labour exchange lists, mobile workers, workers belonging to particular categories to be defined in relation to specific territorial areas, or suspended workers entitled to the extraordinary treatment of having their salaries made up.

42. As already indicated in connection with the labour relationships and contracts envisaged by the 1996 agreement, the term "socially useful work" is to be understood as referring to work for a limited period of time and of an extraordinary character to be realized in such innovative sectors as cultural assets, environmental protection, urban rehabilitation, research, professional training and requalification, assisting small and medium-sized enterprises by the provision of services and support for marketing and exports, and personal assistance services. This type of contract does not involve the establishment of a labour relationship and for the subjects so employed does not therefor imply loss of the extraordinary treatment of having their salaries made up, or loss of the mobility indemnity and cancellation from the labour exchange and mobility lists. The workers concerned must however be insured against accidents and professional illnesses, as also in respect of third-party liabilities.

43. Categories of workers who benefit from either the wage supplement fund or the mobility indemnity may be used only for periods that do not exceed the period of entitlement to these benefits. The contribution due to the employer in respect of such workers shall be commensurate to the number of days they effectively perform these services.

44. The Ministry of Labour is to be assisted by an assessment committee instituted by means of an appropriate decree and having the task of providing opinions regarding the various national and international projects and collaborating in the preparation of an annual report on the application experience of these projects. The Minister of Labour is required to report at half-yearly intervals to the competent committees of the Senate and the Chamber of Deputies regarding the use that is made of workers employed on socially useful work.

45. An examination of the contents of the aforementioned laws of 1993 and 1996 brings out, first and foremost, the determination of the Italian Government to ensure constant economic, social and cultural development by the adoption of adequate intervention policies and, above all, to come to grips with as longstanding a problem as the employment of the working population.

With precisely this end in view, the said report also took into consideration other intervention sectors in order to verify whether the measures adopted by the Government for the purpose of encouraging employment can be further perfected to ensure optimal functioning of the entire Italian productive structure: the sectors so reviewed included public services, employment of young people, concrete application of the ILO conventions, and protection of immigrant workers from outside the Community.

Public services

46. Public services concerned with registering and placing workers have lost a part of their competencies in connection with placement in recent years: they no longer perform any action in compensating demand and supply of labour. They have, rather, assumed the character of bodies of supervision and control of the hirings effected by employers as a result of direct contact with the workers. It is therefore the employer who - subject to the obligations deriving from the obligatory placement discipline and the 12 per cent of the total hirings reserved for particular categories - freely chooses from among the workers included in the lists and takes them on by requesting named individuals (Law No. 223/1991).

47. A subsequent modification of the regulations governing public services conferred even greater freedom of action upon the employer: in fact, he may now hire the worker directly and is subject to the sole obligation of reporting the hiring to the local labour exchange within the space of five days; to this end he need only indicate the name of the worker, the date he/she was taken on, the type of contract, the job qualification and the economic and normative treatment (article 9 bis of Law No. 608/1996). The local labour exchange therefore has no other function than formally controlling the hiring and the conformity of the individual labour contract with the collective agreements and current legislation governing economic treatment and conditions of work. The sole concrete task the labour exchanges are now required to perform is to remove the hired worker's name from the placement lists.

48. As already envisaged by the previously discussed 1996 agreement private permanent job intermediation, the exclusiveness of the public sector will also disappear in the case of temporary work upon the approval of a bill now before Parliament and already passed by the Senate: the temporary supply contracts, as already indicated, envisage the hiring by enterprises of one or more workers for a limited period of time, which may be either specified or undefined, to meet requirements of a temporary character.

49. In this specific sector the Ministry of Labour will henceforth have the following tasks:

- verifying that the necessary requirements effectively exist in the enterprise;

- provisionally authorizing the supply activities;

- registering the supplying enterprise in an appropriate album to be kept at the Ministry; and

- verifying the correct performance of the supply activity in the course of the first two years and, in the event of a positive assessment, to authorize the said activity for an indeterminate period of time. However, the supervision and control functions of the Ministry of Labour in connection with the activities of authorized subjects is not limited to the provisional period of two years. It continues to be exercised for the entire period in which the supplying enterprise remains registered in the aforesaid album. At both the central and the peripheral level, the Ministry of Labour will play a fundamental role in connection with the performance of temporary work, which may be carried out only in particular conditions to be defined by a decree of the Minister and under the continuous supervision of the competent organs of the Ministry itself.

50. A particular role in connection with placement is performed also by the recently constituted structure known as "Eures". It is an information and orientation network regarding the Community labour market and the demand and supply of work. It was set up in implementation of Regulation No. 2434/92 and EEC Decision No. 569 of 22 October 1993 to mobilize the public employment services of the 15 member States (and also Norway and Iceland as signatories of the European Economic Area Agreement), together with other regional, national or international operators active in the employment field (i.e. trade union organizations, employers' associations, local and regional authorities). The manpower of the Eures network is constituted by more than 450 Eurocounsellors, including 44 in Italy, distributed over the entire territory of the EU and the European economic area and forming part of the public employment services, the trade union organization, the employer federations and the regions.

51. Every Eurocounsellor is connected to the network via an informatics structure that enables him to access two data banks in real time and to use the electronic mail system to communicate at any time with the other network members. Eures coordination is performed by the European Commission, which issues appropriate directives for the project leaders and those responsible for human resources in the various member States, who in turn coordinate the activities of the Eurocounsellors within their own national territory and respond for their work vis-à-vis the Commission.

52. Eurocounsellors inform, counsel and orient mobile job candidates and enterprises willing to take on workers from abroad. The efficacy of the Eures network is directly bound up with the quality and variety of the information contained in the databanks. Consulting this information on his screen, each Eurocounsellor can access:

- a databank of jobs available at the Community level (BEC); and

- a databank of general information about the conditions of life in the member States (INFO 92).

53. The Eures service is free of charge and is intended for mobility candidates, for whom Europe represent an opportunity of expanding their

abilities and thus improving their professional prospects. The second type of Eures user is represented by employers who desire to extend the range of their hirings beyond the limits of national territory.

54. The aforementioned Laws No. 236/1993 and No. 608/1996 attribute to the Ministry of Labour a fundamental role in the management of the resources set aside for employment incentives in relation to the activities performed by the public services operating within Italian territory.

55. As regards Law No. 236/1993, the actors involved in planning the intervention procedures of a public nature are:

- municipal consortia, companies, cooperatives and private groups, bodies managing mutual funds for the promotion and development of cooperation: these are called upon to collaborate in the design of models and instruments for managing mobility and the development of new employment;

- industrial promotion companies in which the State has holdings, joint-stock companies deriving from the transformation of management bodies of State holdings or dissolved management bodies: in agreement with the Ministries of Labour and Industry, these participate in the implementation of the procedures for utilizing the fund envisaged in article 1 of Law No. 263.

56. As indicated in the previous discussion, Law No. 609/1996 entrusts the public administrations, companies controlled by public capital and other subjects to be identified by means of an appropriate decree of the Minister of Labour with the task of drawing up projects of social utility, though always subject to the existence of certain basic requisites.

57. A number of other aspects should however be set out here over and above this indication:

- the aforesaid socially useful projects are to be prepared in accordance with criteria established by the Minister of Labour and Social Security in accordance with the Minister of the Public Service; they are to be submitted to the Ministry of Labour and Social Security if national or interregional and have to be approved by the Central Employment Commission at the Provincial Labour Directorate; if local, on the other hand, they are to be submitted to the territorially competent employment agency and have to be approved by the regional Employment Commission;

- assignment of workers to entities managing socially useful projects is to be effected by the local labour exchange on the basis of criteria established by the Minister of Labour and Social Security who, bearing in mind possible territorial specificities of the employment emergency, may also define extraordinary modalities for assigning workers to these socially useful projects, including the adoption of such criteria as family responsibilities, age and place of residence;

- as previously explained, mobile workers or those benefiting from the wage supplement fund who refuse assignment to a socially useful project lose their entitlement to mobility treatment or wage supplements. This loss is decreed by the Provincial Labour Directorate by means of a measure against which the interested party may appeal to the Regional Labour Directorate.

Employment of young people

58. The second aspect taken into consideration in connection with the implementation of government policies in matters of employment incentives and the fight against unemployment is that of legislative measures adopted in Italy in the sector of employment of young people.

59. The most important instrument for encouraging the working activities of the young generations was Law No. 863 of 19 December 1984. The said law envisaged the stipulation of labour training contracts for a period not exceeding 24 months in favour of persons between 15 and 29 years of age (art. 3), an age limit that by means of Law No. 407/1991 was subsequently raised from 29 to 32 years solely for young people resident in the various areas of southern Italy. These contracts had a twofold reason, because they sought not only to facilitate employment, but also to provide occupational training for young people or to enhance already existing competencies. They therefore configured a labour relationship that did not simply consist of an exchange of services provided by the worker against remuneration paid by the employer, but also an exchange of useful work and training to provide the young worker with the professional competence he needed to join the labour market.

60. This type of contract made it possible for public agencies and private enterprises to take on young people, always provided that they had no suspended workers on their staff or had reduced their personnel in the 12 months preceding the request (unless the skills and trades involved in the hirings were different from those involved in the said suspensions and reductions). Hirings by means of such labour-training contracts could not be made by employers who at the time of making the request for new hirings had not maintained in service at least 50 per cent of the workers whose labour training contract had expired in the course of the immediately preceding 24 months. This 50 per cent was however reckoned in such a way as not to include workers who had voluntarily terminated their employment, workers who had been dismissed for a valid reason and those who had refused to remain in the employer's service on the basis of a normal labour contract for an indeterminate period of time.

61. The labour training contract had to be stipulated in writing and the worker had to be provided with a copy. On termination of the relationship, the employer was required to issue a certificate setting out the activities performed by the worker and the results attained; in the absence of a written contract, as also in the event of the employer's failure to comply with the obligations imposed by the contract, the said contract was considered as having been stipulated for an indeterminate period of time right from the beginning.

62. The duration of the labour training contract was reckoned as part of the length of service in the event of the contract becoming transformed into a normal labour contract for an indeterminate period of time either during or upon the expiry of the labour training contract or within the 12 months immediately following the said expiry. Employers who hired workers on the basis of these labour training contracts were eligible for reductions of their social security contributions ranging from 25 to 50 per cent according to their particular activity or the territorial areas in which their enterprises were situated. The times and the modalities of executing the labour training contracts were established by means of projects devised by the public economic agencies or private enterprises and approved by the Regional Employment Commission.

63. The conditions governing the employment of young people underwent further significant modifications upon the coming into force of Laws No. 236 of 1993 and No. 608 of 1996. In fact, as already mentioned when discussing the contents of Law No. 236/1993, a part of the newly instituted fund for employment and development is intended to assure an adequate financial support for bringing to life new enterprises of young people in various sectors contemplated by the law (art. 1 bis). But the particular connotation of the labour training contracts in favour of the employment of young people ceased upon the coming into force of Law No. 608 of 1996. It empowers the Regional Employment Commission to raise without any restriction whatsoever the age limit of the workers who may be taken on by means of these labour training contracts.

64. Lastly, a bill containing norms regarding the promotion of employment, which has already been approved by the Senate and is now being considered by the other branch of Parliament, introduces new regulations governing apprenticeship (art. 16). Since the principal characteristics of this type of labour relationship have already been set out elsewhere, it will be sufficient to recall here that the formula of the apprenticeship contract can be adopted by employers who take on young apprentices and in return obtain social security contribution relief, always provided that the apprentices in question are allowed to participate in the outside training initiatives envisaged in the collective labour agreements at the national level.

65. These training initiatives envisage an average commitment of at least 120 hours per annum, have to be concerned also with the particular discipline underlying the labour relationship, work organization and the preventive measures for safeguarding health and security at the place of work.

Application of the ILO Conventions

66. The drafting of an adequate legislative framework for this sector is supplemented by the action undertaken by the Italian Government with a view to adapting the contents of the ILO Conventions No 81 (Work Inspection) and No. 122 (regarding employment policy).

67. In the case of the former, an important role is played in Italy by an organ known as the Labour Inspectorate: this State organ acts at the provincial, regional and national levels, in the latter case through a central service that coordinates the activities of the individual inspectorates, with

functions that comprise general and organization services, technical and ordinary supervision, and legal services; the competencies of the inspectorate were amplified upon the coming into force of Law No. 499 of 6 December 1993 concerning the depenalization of offences in the labour field.

68. As far as the second ILO Convention is concerned, numerous measures have already been introduced at the national level to give effect to its provisions; among these we would here recall:

- the reintroduction of Law Decree No. 515 of 4 December 1995 - today Law Decree No. 181 of 2 April 1996 - concerning placement procedures with particular reference to the possibility of hiring workers directly with simple post-factum communication of the hiring within five days. The said decree also comes to grips with other matters, among them placement regulation in agriculture, promotion activities, information circulation activities, assistance and consultancy, training and orientation courses (art. 8), promotion of autonomous work in southern Italy (art. 10), incentives for re-employing personnel (art. 12), and measures in favour of small operating companies (art. 13);

- the Ministerial Decree of 23 November 1995 concerning the operation of the instruments envisaged by Law No. 236 of 1993, especially the Employment Fund, for allocating resources for the creation of additional employment;

- Law Decree No. 40 of 1996, which seeks to indicate the principal requisites that characterize the contractual relationship of the internship envisaged as a possible labour contract by Law No. 236.

Protecting immigrant workers from outside the EC

69. Particular importance is taken on by the initiatives for the protection of immigrant workers from outside the EC; among the numerous normative measures in this area mention should here be made of:

- the Decree of the President of the Republic dated 14 August 1996 concerning the appointment of a specific organ, the Extraordinary Government Commissar, for immigration from the countries outside the Community, with the task of supervising the departures and entry into Italy of citizens of non-EC countries;

- Law Decree No. 511 of 1 October 1996, which lays down urgent dispositions regarding placement, work and social security in the agricultural sector to discipline the effects of the suppression of the Unified Agricultural Contribution Service (SCAU) and the promotion of employment;

- Law Decree No. 512 of 4 October 1996 intended to regulate assistance procedures and urgent interventions of a social and humanitarian type in favour of evacuees from the republics of the former Yugoslavia (art. 1) and refugees from Rwanda (arts. 2-5);

- Circular No. 188/96 of the National Social Security Institute (INPS) introducing a number of innovations into the regulations governing labour relationships that involve employees from outside the EC; to all intents and purposes, this circular delineates the fundamental requisites underlying intervention procedures and the stipulation of labour contracts that have to be satisfied by both the employers (especially from the point of view of greater guarantees in the social security sector) and the workers;

- Ministry of Foreign Affairs Telex No. TG 18946C of 19 October 1996, which concerns the necessary streamlining of the procedure for issuing visas to workers from outside the EC employed in seasonal work.

Article 7

70. The Italian Government has made several interventions within the ambit of article 7 of the Convention, following the principal directives already outlined in matters of safeguarding working conditions. These interventions were undertaken with a view to assuring a maximum level of safety and adequate remuneration for workers.

Right to an equitable wage for work of equal value

71. The entire system envisaged by Italian legislation in the matter of employment and the consequent remuneration of work has been subjected to a re-examination on the basis and the significance of the remuneration. The general characteristics the Italian order associates with remuneration are: sufficiency, proportionality, determinacy (or capability of being determined), obligation, consideration and continuity.

72. Comprehensiveness, at least in a relative sense, cannot be deemed to be included among these characteristics, as is readily demonstrated by Ruling No. 3888 of the Supreme Court of Appeal dated 1 April 1993, inasmuch as the problem of the comprehensiveness of remuneration, given its twofold formulation both as income and parameter for the calculation of direct and deferred remuneration, is always devolved to further consideration and decisions of collective bargaining.

73. The requirement of parity, on the other hand, has been affirmed by Ruling No. 103/89 of the Constitutional Court, even though in general principle it has been excluded by a recent sentence of the Court of Appeal (No. 6031 of 29 May 1993).

74. The means of remuneration are manifold: they may be represented either by sums of money or by participation in the profits of the business or enterprise, the products it produces, the charter or other products of a voyage, by a percentage on concluded business deals, or by joint ownership with the employer. The essential elements of remuneration are the basic pay, cost-of-living allowance, and accessory attributions. The systems of remuneration may be based on time, piece-work or incentives; the remuneration is generally defined in relation to an entire year of work, but is paid at weekly, fortnightly or monthly intervals.

75. The system of adjusting wages by means of the cost-of-living allowance came to an end on 31 December 1991 (Law of 26 February 1986 and Law No. 1991 of 1990): in general principle, however, this modification of the manner of calculating the wage remuneration has been negated by a recent sentence of the Constitutional Court: Ruling No. 243/43 of the Court, in fact, reaffirms that wage dynamics correlated with the variations of the cost of living are essential to satisfy the condition of proportionality between remuneration and the quality and quantity of work already envisaged by article 36 of the Italian Constitution.

76. In Italian legislation, be it of a constitutional nature (article 36-37 of the Constitution) or an ordinary nature (article 2013 of the Civil Law Code), the treatment of remuneration is present. Given the very summary nature of the constitutional dispositions regarding this matter, a decisive part has here been played by the Supreme Court of Appeal, so that some of its more significant decisions and sentences merit being briefly reviewed here:

- Ruling No. 3888 of 1 April 1993: this decision concerns the canteen service and the incidence of additional pay and indemnities for night work comprised in a regular shift roster. Over and above dealing with these specific aspects, the ruling enunciates a number of other principles of a more general character:

  (a) within the overall economic treatment, the requisites of proportionality and sufficiency concern only the income, i.e. the direct remuneration, and not the remuneration-parameter, i.e. the deferred remuneration;

  (b) the regulation of labour relationships is entrusted both to the law, which may intervene in connection with the items of the remuneration-parameter, and to collective bargaining;

  (c) the ruling confirms the significance of comprehensiveness (see above).

  The ruling also considers as delicate the right to a sufficient and adequate remuneration, which cannot but be considered a pillar of every economico-juridical construction in a State that, like the Italian Republic, is based on work.

- Ruling No. 6031 of 25 September 1993: this decision discusses the presence of a principle of parity in the Italian order, which it denies in general principle by virtue of the fact that "it could produce disruptive effects on, to begin with, the whole of the complex legislative elaboration regarding labour training contracts, subsequently continuing these effects on the doctrinal, jurisprudential and trade union aspects";

- Ruling No. 1438 of 5 February 1993 and No. 4301 of 9 April 1993 of the Labour Section of the Court of Appeal: these sentences come to grips with the thematic of the efficacy of the collective

agreement in common law, which has hitherto been denied even by the workers themselves on the grounds that it could produce pejorative contractual conditions.

Safety and hygiene at work

77. Particular interest in connection with the problem of safety and hygiene at work is attached to Law Decree No. 626 of 1994. This decree faces up to the matter by following the lines of action already set out in three previous decrees of the President of the Republic, namely No. 547/55, 303/56 and 164/56.

78. Unlike these previous legislative instruments, however, the new decree ushers in a general overhaul of some key principles: redefinition of the obligations imposed on the employer, the executive and organs of the executive hierarchy where these exist (art. 4), specification of the ambit of action of the prevention and protection service, especially the tasks entrusted to the public administration in this connection (art. 8), exercise of the functions of supervision (art. 23), information, consultancy and assistance (art. 24), and the role and competencies of the Permanent Consultative Committee for hygiene and accident prevention at work (art. 26).

79. Other modifications introduced by the new normative text are more specifically concerned with the indication of the places of work (art. 31) and the identification of the safety and health requisites that should prevail in them (art. 33), the application of more adequate measures in the field of health supervision (art. 70), and the imposition of sanctions in respect of any breaches committed by employers and executives (art. 89).

80. To complete the measures adopted in Italy with a view to realizing a more incisive intervention in the sector with which article 7 of the Convention is concerned, a particularly interesting picture as regards safety guarantees in places of work comes to the fore when one considers work accidents and occupational diseases. The data are constituted by information regarding the victim, the professional capacity performed at the time, the place and the year in which the event occurred, the type of outcome (temporary disability, permanent invalidity or death), the economic activity carried out by the employer, and the type of event (according to form, material agent, location and nature of injury, and occupational disease code).

81. In the period of observation, i.e. 1990-1995, one may note:

- as far as work accidents are concerned, a general downturn of the cases in every sector of economic activity, be it agricultural or industrial (in the latter sector it fell to the building and construction industry to record the highest percentage of cases of death or permanent invalidity); the most frequently occurring material agents are "materials, substances and radiations" (25 per cent) and "work environments" (23 per cent); the most badly affected age group is the one that goes from 30 to 59 years (71 per cent of the cases);

- as regards occupational diseases, on the other hand, the data here examined are the "pensions paid to the victims", which totalled 280,860 for the two sectors (industry and agriculture) and are followed by appropriate information about the type of illness and the age group distribution (see tables in appendix).

82. Side by side with the national normative production and the statistical survey just referred to, particularly prominent mention should here be made of some law decrees that adapted Community directives regarding health and safety at work for the Italian order. With the help of this procedure, Italy proposes to continue along the road of bringing domestic policy in matters of work hygiene and safety into ever greater harmony with the measures and procedures already in force in the territories of the other members of the European Union.

83. The aforementioned decrees include (among others): one regarding modification of the work accident register for accidents involving temporary inability, with special reference to cases in which the absence from work caused by the accident lasts for at least one day over and above the day of the event itself (5 December 1996); one envisaging the adoption of standardized procedures for discharging documentation formalities, which had already been modified and integrated by Law Decree No. 242 of 19 March 1996, and requiring small and medium-sized enterprises to use the form attached to the decree in the event of a worker suffering an accident at the place of work (5 December 1996); one regarding identification of the employer's representative who is to discharge the peculiar tasks of a prevention and protection service office (16 January 1997); and the decree that reduces the frequency with which the competent medical officer is to visit places of work to once a year (16 January 1997).

Rest, leisure and annual leave

84. The regulation of working hours was at the centre of recent debates at both the national level and in Community environments. The Italian Government deemed it appropriate to fall into line with the profound structural reforms in the other member States of the European Union. This found expression primarily in the reception of Directive 93/104/EC issued by the Council of the European Union on 23 November 1993. This directive envisages the application of minimum health and safety requirements in the matter of working hours (art. 1), a minimum daily rest period having a duration of 11 consecutive hours, a weekly rest period to be calculated by starting from a minimum of 24 hours, and annual paid leave of at least four weeks.

85. There still remain to be established the modalities by means of which the aforesaid directive is to be applied to the weekly pause and the maximum duration of weekly work, as well as some aspects relating to night work (which must not exceed a period of eight hours per day), shift work and the rhythm of work in the various sectors of private or public activity. The exceptions are air, road, rail and sea transport, navigation in inland waters, high-sea fishing and other activities on the high seas, as well as the activities of doctors in training.

Article 8

86. The discipline of trade union freedom as envisaged in article 8 of the Covenant has not undergone - at least in recent years - any substantial modification of either the organizational system of the trade unions or the legislation and regulations governing the rights, activities and freedom of the trade unions. It is nevertheless interesting to briefly review here the essential points of the structure of the trade union apparatus in order to convey the full value that the Italian order attributes to it, though we ask the reader's forgiveness if, in providing a complete overview of the subject matter, we shall be obliged to move forward and backward in time.

The right of trade union freedom

87. Article 39 of the Constitution, after sanctioning the principle of freedom of trade union organization in the first paragraph, goes on to establish:

- that the trade union organizations are subject to no other obligation than registering with the appropriate offices;
- that the essential condition for obtaining the registration of a trade union organization is that its statutes should provide a democratically based internal order; and
- that, following registration, the trade union organization acquires a juridical personality.

88. Nevertheless, the system envisaged by article 39 has never found full application in our juridical order, since no ordinary law of implementation has ever been put on the statute book; the principal obstacle standing in the way of satisfying this requirement is said to be constituted by the consequent control that the Government, in accordance with the text of the Italian Constitution, would exercise over both the internal structure of the trade union organizations and the numerical strength of their members.

89. Following the assumption of a neutral position by the competent legislative bodies for the entire period between the 1950s and the end of the 1970s, this led to the birth of autonomous trade unions and the creation of a Unitary Confederation of the CGIL, CISL and UIL unions with the task of adopting common trade union directives.

90. Following the coming into force of the so-called Workers' Statute (20 May 1970), there was defined (see art. 19) the new figure of the trade union representative within the company, who at the workers' request could now be instituted in every production unit, though only within the ambit of the more representative trade union confederations at the national level (para. (a)) or the trade union organization who are signatories to the national or provincial collective agreements applied within the production unit in question (para. (b)).

91. This article gave rise to an objection of unconstitutionality, so that the Constitutional Court had to intervene in the form of Ruling No. 54 dated

6 March 1974. In this Ruling the Court held that the legislator "had wanted to avoid a situation in which single individuals or small and isolated groups of workers, constituting themselves as trade unions without having the requisites of being effectively representative at the company level, could claim the right to carry out this function, performing within the company ambit indiscriminate and unsuitable activities that do not operate in favour of the workers, thus giving rise to an unforeseeable number of organs that, interfering in the life of the company in defence of the most diverse and sometimes even conflicting individual interests, have the power of claiming the application of norms that have much wider ends in view, thereby compromising, or at least hindering, the work of the company and the entrepreneur and even the realization of the collective interests of the workers themselves".

92. The most recent legislation in the field of trade union freedom is represented by Decree No. 312 of the President of the Republic dated 28 July 1995. It comes down in favour of the partial abrogation of the aforesaid article 19, eliminating the phrase "of the associations belonging to the confederations that are more representative on the national level" from paragraph (a), as also the phrase "not affiliated to the said confederations" and words "national or provincial" from paragraph (b); this legislative intervention was immediately sanctioned by the Constitutional Court, which confirmed the validity of article 19. In fact, the Court held that "even though the expression 'confederations more representative on the national level' had been abrogated, the criterion of the degree of representativeness still continues to be relevant by virtue of the other criterion envisaged by the norm under consideration, namely the one referring to the trade union associations who are signatories to the collective agreements applied in the production unit".

Federations and confederations

93. It should here be noted that, while fully respecting the pluralist principle, the structures of the trade union organizations that at present exist in Italy present some common characteristics. As a general rule, the trade union organization is structured on a vertical and horizontal basis; in the former case the unions at the municipal level are organized according to trades or economic categories and come together in the provincial trade union for the given category. From there, continuing the ascent in the vertical direction, one passes to the national federations and these, in their turn, give rise to the confederation. But the provincial trade unions also come together in the horizontal direction, in the so-called territorial unions, which may assume different names according to the particular confederation to which they belong at the national level. As regards the organization of the employers, on the other hand, this normally consists of provincial associations, which have internal subdivisions or sections of more limited territorial competence; these associations combine into federations and these, in turn, are grouped into confederations.

Free exercise of trade union activities

94. As things stand at present, the trade union organizations assume the juridical status of de facto bodies, since Parliament's failure to implement

article 39 of the Constitution has brought in its wake a situation in which the unions are disciplined by common law and, more particularly, articles 36, 37 and 38 of the Civil Law Code. They therefore constitute nothing other than unrecognized associations, that is to say, de facto bodies that are free to act and organize as they deem fit and proper.

The right to strike

95. The right to strike has its juridical foundation in the Italian order at the level of both the Constitution (art. 40) and ordinary law, with the latter ranging from Law No. 604 of 1966 right through to Law No. 146 of 1990, which is specifically concerned with regulating the right to strike within the ambit of the essential public services.

96. Quite generally, however, the contents of the regulation developed in Italy in the matter of the right to strike underscore the importance that this right should be guaranteed, excluding any possibility of its being limited and underscoring a number of fundamental principles connected with this right, including:

- membership in a trade union and participation in trade union activities, strike action included, cannot constitute grounds for a worker's dismissal;

- should a worker nevertheless be dismissed for these reasons, he must immediately be reinstated in his job;

- in cases where the anti-union attitude or behaviour cause prejudice also to the employment relationship, the trade union organization may lodge an appeal with the territorially competent regional administrative tribunal.

97. The principle that underlies and inspires the safeguards accorded to the right to strike - i.e. the conservation of the worker's job quite independently of what may or may not have motivated the collective action - was reconfirmed by the aforementioned Law No. 146 of 12 June 1990 concerning the right to strike in essential public services. The law in question establishes norms and regulations intended to reconcile the right to strike in the essential public services with the enjoyment of the rights of the person equally safeguarded by the Italian Constitution.

98. With a view to identifying the steps to take, the legislator has chosen collective autonomy, establishing that the administration and enterprises furnishing essential public service must agree on the modalities of a possible strike action with their trade union counterparts on the occasion of the collective agreements, and this after having heard the user associations. The agreed procedure must always respect and comply with two fundamental rules: a period of notice of at least 10 days must precede the abstention from work and the duration of the strike action must be predefined. However, these rules do not apply to strikes in defence of the constitutional order or to protest strikes in response to grave events that prejudice the physical integrity and safety of the workers.

99. The law also envisages a complex apparatus of sanctions (art. 4) to be applied in case of non-observance of the legal or agreed rules of conduct to workers, trade union organizations, private employers and officers responsible for the public services within the ambit of the public administrations.

100. As regards ensuring effective exercise of the constitutionally protected rights of the person, a suitability judgement is to be given by the Guarantee Commission that is to supervise the implementation and application of this law. The law configures the said Commission as an impartial authority that is to be fully independent of the executive and responsible directly to the Presidents of the two branches of Parliament. The Commission is to assess the suitability of the tasks defined in the collective agreements with a view to conciliating the conflicting interests of the workers and their organizations on the one hand and those of the users of the public services on the other.

101. When assessing the suitability of the agreements submitted to it, the Commission is to formulate proposals of its own as to the tasks that it considers indispensable. The value attributed to the said assessments of the suitability of collective agreements is not expressly specified by the law in question. There would seem two very different and conflicting interpretations in this connection:

- the interpretation given by the trade unions, which tends to privilege the acts of collective autonomy as compared with the valuations given by the Commission, reducing the latter to the rank of mere opinions that, rather than being binding, are intended only to stimulate the parties; and

- the interpretation that sees the assessments of the Commission as a requisite of the efficacy of indispensable public services. The Guarantee Commission for the implementation of the law has to act in accordance with principles of impartiality. It is to assess the suitability of the tasks defined in the collective agreements with a view to conciliating the conflicting interests of the workers and their organizations on the one hand, and those of the users of public services on the other.

102. Articles 8, 9 and 10 of Law No. 146 attribute a particular power of ordinance to the Government authority when there exists a well-founded danger of grave and imminent prejudice to the constitutionally protected rights of the person as a result of the non-availability of public services caused by a strike. The said power may be exercised by following a rather complicated intervention: either the Prime Minister or some other minister delegated by him in the case of a conflict of national or interregional importance, or the prefect or the corresponding organ in the special-statute regions in cases of merely local importance, is to invite the social parties to desist from behaving in a manner that entails situations of danger. A conciliation attempt should be undertaken and completed in the shortest possible period of time and, in the event of failure, the parties should abide by any proposals formulated by the Guarantee Commission.

103. Whenever the situation continues, the aforementioned organs, after having heard - whenever possible - the organizations of workers responsible

for the agitation and the subjects who manage and administer the services, and - in the case of a strike of merely local importance - after having consulted the president of the regional government and the territorially competent mayors, the said organs are to issue ordinances intended to ensure performance of indispensable tasks and to impose upon the employer appropriate measures to ensure adequate operating levels of the services in question. This should conciliate the exercise of the right to strike with the enjoyment of the constitutionally protected rights of the person.

104. The contents of the overriding ordinance may be of various kinds: it must always specify the period of time during which the measures it imposes have to be complied with by the parties. It may also limit itself to imposing a postponement of the strike action in order to avoid it taking place at the same time as other strikes involving services of the same sector.

105. Juridical protection against the ordinances in question may be sought by lodging an appeal with the competent regional administrative tribunal within seven days of the time when the ordinance is communicated or affixed in the places of work. This protection is supplemented by a provisional safeguard. The tribunal, on the occasion of the first hearing and subject to the existence of adequate reasons, may suspend the ordinance appealed against or, where appropriate, any part thereof that exceeds the need of safeguarding the constitutionally protected rights of the users.

Coordination with the ILO Conventions

106. As far as Italy is concerned, the contents of the conventions drawn up by the International Labour Organization in connection with trade union freedom are applied and realized by an appropriate organ, the Tripartite Consultative Committee for the coordination of the participation of our country in the various ILO activities, originally instituted by a Ministerial Decree dated 21 April 1993 and operating as part of the Directorate General for Labour Relationships. Its tasks can be summarized as follows: the Committee acts with a view to issuing opinions (in application of article 5 of ILO Convention 144 - Tripartite consultations regarding international labour regulations) on legislative initiatives designed to implement the ILO Conventions and on proposals to withdraw from the said Conventions; it also concerns itself with proposals for pinpointing priority topics to be made the subject of future conventions or recommendations, and proposals and initiatives intended to assure concertation of the parties in view of ILO project deadlines.

Article 10

107. Italy is passing through a period when a great deal of thought is being dedicated to welfare policies. This reflection, obviously, does not fail to consider also the economic cycle dynamics bound up with the policies for containing the public debt and the efforts that are being made to bring the public system into line with models of efficacy in the social, economic and cultural field. It proposes, first of all, to respond to the needs that have forcefully affirmed themselves among very substantial sections of the population. In this general framework and for the purposes of verifying the state of application of the Covenant, the central questions are undoubtedly

those relating to housing poverty, economic and cultural poverty and the shortcomings of policies in support of family responsibilities.

108. With a view to illustrating the policies drawn up by the Italian Government for the purpose of coming to grips with these questions and outlining the proposed framework of structural interventions that within a few months' time will begin to make heavy demands on the Italian institutions, the more detailed account given below will concentrate first and foremost on housing poverty and therefore on treating the more significant topics connected with this aspect.

109. One of the indicators of well-being in this sector is provided by the crowding index of the dwellings in which parents cohabit with their children and other people. The crowding index is an important element not only for the purposes of assessing housing precariousness, but also for appreciating the inequalities that still exist in the quantity and quality of the living space at the disposal of families and their members. This is especially so when they are children (some relevant tables of statistics will be found in the appendix to this report). As compared with 1984, the housing situation of minors and families has undoubtedly improved; in particular, there has been a downturn in the percentage of people who live in "overcrowded" habitations. All the same, there are also numerous family groups for whom the situation has worsened. Between 1984 and 1993, for example, the number of people in families of two adults and two children who lived in crowded dwellings increased from 62.9 per cent to 83 per cent and in the same period those in families with two adults and three children passed from 59.3 per cent to 88.5 per cent. In other words, it would seem that the housing situation has improved only at the extremely precarious end of the scale.

110. When one examines the situation in terms of territorial distribution and considers the sum total of all the families, the percentage of people in crowded dwellings increases as one passes from the north (1.3 per cent in crowded dwellings) to the south (5.1 per cent) of the peninsula. It is, however, very interesting to note that in small family groups (one adult and one child) the percentage of people in crowded or overcrowded dwellings is higher in the northern parts of the country (31.8 per cent) than it is in the south (5.9 per cent). The situation becomes inverted when one concentrates attention on larger families (three or more members). The highest percentage difference occurs in the case of families with many children, i.e. families with five members, three of whom are children. In the north, in fact, 14.2 per cent of the members of these families live in non-crowded conditions, which compares with 2.4 per cent in the south. Nevertheless, when attention is limited to this type of family living in overcrowded dwellings, the situation inverts once more, since the description fits 13.3 per cent of the total number of people in this category in the north, but only 5.1 per cent in the south.

111. Summing up: though for a child it is perfectly true that living in crowded dwellings is more probable in the south, it is equally true that for some types of family overcrowded conditions are particularly widespread in the north (five members) and in the centre (three to four members) of the country.

112. The crowding index, of course, is only an indicator of the conditions in which a child passes the greater part of its life. First of all, this index gives only a value that considers adults and children to be "equals", this in the sense that it take no account of the fact that the space at the disposal of a family is not necessarily equally distributed between adults and children. In fact, adults reserve for themselves far more space than they leave for the children. For our immediate purposes, a more valid indicator would be represented, for example, by figures that distinguish the space in which the children live from the space effectively occupied by their elders.

113. Housing density is only one of the aspects of the quality of life. Indeed, it should always be considered in conjunction with the presence of appropriate services in the habitation. One of the tables in the appendix, for example, shows the percentage of people who in 1993 lived in a dwelling equipped with a heating system. It can clearly be seen that families with children enjoy a greater probability of living in a home with a heating system than families consisting of adults only. When the family consists only of two adults, the percentage of people who dispose of heating equipment stands at 91.6 per cent; this figure rises to 94 per cent when the family consists of one adult and one child. But the opposite happens in the case of large families: in this case, in fact, it is the families with children that are less likely to have a home with a heating system (in the case of families consisting of five people, in fact, the respective percentages are 91.5 and 87.5 per cent).

114. Disparities come to the fore also when one analyses the disaggregated figures at the territorial level: considering all types of families, the percentage of family members who live in dwellings with heating equipment is clearly greater in the northern and central parts of the country. When attention is limited to families with children, the differences between these major geographic areas is generally of the order of 17-20 per cent, no matter what the size of the family. In other words, at least as far as this particular service is concerned, the condition of families in southern Italy, as also of the children who live with them, is certainly less satisfactory than that of families in the centre-north. Once again, however, no peremptory and definitive statements can be made as to the dwelling conditions of children - though it is quite true that this difference (which has in any case become smaller in recent years) results from a smaller presence in the southern parts of the country of new housing that complies with modern building standards - it is also true that the climatic conditions in some parts of the south are such as to render a heating installation less indispensable for the well-being of the inhabitants of a house than it would be in the north.

Article 11

115. In the matter of renting one must underscore the fact that the Italian Government has recently taken action with a view to tackling the problem of the growing difficulty that family groups, especially young couples and single-parent families, are experiencing in renting or purchasing accommodation, difficulties that become particularly acute in the densely populated areas of the major urban centres. This situation has made it urgent

to intervene for the purpose of overcoming what is now referred to as the greatest obstacle to the formation of new families: the impossibility of renting or purchasing a home.

116. A bill tabled by the Government in Parliament on 31 October 1996 is intended to constitute the principal instrument for the attainment of the following goals:

- assisting a wide range of young people by eliminating complex bureaucratic procedures and the formation of ranking or waiting lists and with a limited economic commitment of the State in support of housing policy;

- enhancing work mobility by facilitating the exchange and redistribution of existing housing; and

- stimulating the return of empty homes into the housing market.

117. As already suggested, the beneficiaries of the aforesaid legislative measure would be family groups made up of young people (less than 32 years of age) and single-parent families with one or more children (art. 2). The envisaged benefits may be granted subject to the essential condition that the floor area of the home involved does not exceed 70 sq.m. (art. 3).

118. A very broad estimate suggests that adoption of the said bill would each year make it possible for some 27,000 people to rent a home, and a further 13,000 when consideration is extended to the possibility of purchasing the property. The consequent loss of income deriving from these measures is to be shared in equal parts between the Treasury and the municipalities concerned (art. 4, para. 3).

119. A word of explanation should here be given as regards the case where the home is purchased: as many as 65,000 young family groups will in fact enjoy certain facilitations, including a 20-year mortgage loan at a facilitated rate below the current market rate and up to a maximum amount not exceeding 105 million lire.

Article 12

120. Health considerations have also begun to play a fundamental role in drawing up projects and in the adoption of particular lines of policy by the Italian Government, especially in the course of the last few years.

121. In the last two decades, in fact, the principal factors in the failure to ensure adequate programming in health matters can be identified as the intrinsic complexity of this sector and the scarcity of economic resources in the face of a continually expanding demand for health benefits. Ever since the first health planning law (No. 833 of 1978) and right through to the interventions of a normative character in 1985 (Law No. 595) and 1991 (Law No. 412), government action was for the most part limited to interventions in the field of hospital organization.

122. The National Health Plan for the three-year period 1994-1996 constitutes one of the principal documents regarding this period; it is the first of the documents to speak of the solidarity of the subjects acting in this sector, as also of a precise subdivision of competencies between State and regions and valorization of the intermediate powers as means of rendering the business structure operative also in the health field, together with the local health units and the hospital organizations, and of the irreplaceable part played by the citizens in a systematic and permanent process of health education.

123. This plan was rendered operative by means of Law Decree No. 502 of 1992, which sets out the following goals to be attained by health planning:

- realization of a precise programming activity for attaining the objectives of safeguarding health at the national level, by means of the so-called uniform health assistance levels, that is to say, the set of health activities and benefits provided by the plan, and the international level;

- definition of constraints regarding the objectives of national socio-economic planning and the financial resources to be allocated to each project; and

- definition of central and regional competencies in health planning matters.

124. The Plan has been drawn up as reference point for the attainment of a number of fundamental objectives:

- equity as regards access to services;

- promotion of pathology prevention;

- participation of the citizenry at large in defining priorities;

- integration of the health interventions with social assistance in order to obtain a global and complete approach to the social and health problems of the weakest strata of the population;

- development of basic medicine; and

- promotion of international cooperation.

125. The plan also lays down the main development lines of the system through strengthening and improving the basic health districts, emergency structures, rehabilitation activities and the introduction of a system of indicators for assessing and controlling health activities. It defines orientations for safeguarding the weaker sections of the population by means of the technical instrument of the "target projects" in the mother-and-child area (see appendix 2), as also in the areas of adolescents, old people, patients with mental disturbances (see appendices 3 and 4), patients suffering from AIDS (see appendices 5 and 6), cancer patients and chronic nephropathics. It introduces the method of "accrediting" individual structures or services, be they public or private, that propose to carry out sanitary activities within

the ambit of the National Health Service. Accreditation will be granted only if the given structure or service effectively disposes of instruments, technical equipment and professional staff in line with appropriate standards to be defined at the national level.

126. As in many other countries all over the world, the last 15 years have seen health expenditure in Italy grow steadily both in absolute terms and as a percentage of gross domestic product (GDP). The constant increase until 1991 was however followed by a substantial downturn in the last few years and, as things stand at present, health expenditure in Italy can be said to be under control at levels that are somewhat lower than in a large part of the industrialized countries. Public health expenditure in Italy currently amounts to 5.4 per cent of GDP and is smaller than its counterparts in all other EC countries with the exceptions of Denmark and Portugal.

127. It is well known that health expenditure is destined to increase, an inevitable phenomenon deriving mainly from the ageing of the population and the consequent growth of the need for medical services. Demographic transformations in our country have been particularly marked in recent decades, involving both a sharp downturn in the birth rate and an increase in the average length of life. As things stand at present, the ageing phenomenon in Italy is both more rapid and more substantial than in the other countries and cannot but be accompanied by a tendential increase of the demands made on health services.

128. Experiments are currently being made with a view to both containing the cost of the services (an important example of cost containment already achieved in Italy is provided by drug expenditure, which in 1991 had reached 13,585 billion lire and was then cut back to 9,772 billion in 1994) and reducing the number of individual service events or benefits. The latter result can be achieved by qualifying the demand and selecting the most efficacious services, accompanied by the elimination of the overabundant and often useless or harmful ones. To all intents and purposes, the problem is to identify the really appropriate benefit types in accordance with useful diagnostic and therapeutic protocols for the individual benefits (Law No. 662 of 23 December 1996, budget law for the year 1997).

129. A number of law decrees, details of which will be given further on, represent the novelties of the new system of financing the hospitals: the highest percentage of health expenditure, about 60 per cent of the total, is incurred in connection with hospital activities and any mechanism designed to reduce this expenditure will therefore exert substantial effects on expenditure as a whole. The introduction of diagnosis related groups (DRGs) ushered in a switch over from a system of expenditure per day of hospitalization to a system that assigns a fixed cost to each type of hospitalization (recovery). Since the most uniform and consistent expenditure element is the duration of the hospitalization, the new system is expected to lead to a reduction of the number of days the patient spends in hospital. The new system has been in force since January 1996 and it is as yet too early to assess its efficacy: there is a risk that it may effectively reduce the duration of individual recoveries, but at the same time increases their total number (by a second hospitalization, for example) and cause a substantial part of the services to be provided outside the hospitals.

130. The 1997 budget law and the regulations deriving from it envisage a set of important measures connected with health matters and, more particularly, four specific problems:

- reduction of the number of hospital beds: the measures follow in the footsteps of earlier measures designed to reduce the number of hospital beds and to activate alternative forms of assistance;

- incompatibility between hospital employment and independent professional work for medical men. By means of these regulations the Government intends to solve the problem of incompatibility, already partially regulated by a previous but never applied regulation, rendering it applicable also to university personnel and encouraging independent professional activities;

- closure of the psychiatric hospitals: the law establishes a series of disposition for the closure of these hospitals, which was already envisaged by the 1995 Budget Law;

- intervention on health expenditure: a series of new regulations for containing health expenditure, not least with the involvement of general medical practitioners and a more specific definition of the responsibilities of the directors general, and making a start also with the definition of appropriate diagnostic and therapeutic sequences. The new regulations also involve a further intervention to limit drug expenditure.

131. With a view to rendering this account complete, we now propose to provide detailed indications of a series of legislative measures concerning health in Italy.

132. Delegation Law No. 421 of 23 October 1992, which is of neoliberal inspiration, eventually gave rise to Law Decrees No. 502 of 1992 and No. 517 of 1993, of which the main points can be summarized as follows:

- regionalization of the planning and organization of health assistance, while reserving the definition of uniform assistance levels and per capita quotas to the State (there are six uniform assistance levels: general health assistance in the ambit of life and work, basic assistance, specialist assistance, hospital assistance, domestic assistance, expenditure for epidemiological support, etc.);

- conversion of the local health units (*unità sanitarie locali - U.S.L.*) into local health enterprises (*aziende sanitarie locali - A.S.L.*) with a juridical personality of their own, reduction of their number from 659 to 228, with government of each A.S.L. entrusted to a director general, who is to be assisted by a health director and an administrative director;

- institution of the prevention Departments and Multizonal Prevention Units;

- each structure must henceforth comply with the requisites for accreditation;

- abolition as from 1 January 1994 of the National Therapeutic Handbook (*Prontuario Terapeuticao Nazionale*), replaced by a positive list in which the Single Drug Commission has reclassified the available pharmaceuticals on the basis of pharmacological efficacy, importance of the pathology and price in three classes (A, B and C);

- introduction of forms of citizen participation to safeguard the rights of the collectivity vis-à-vis the N.H.S. and use of service quality indicators to assess humanization of the assistance, and also its right to information and hospital services;

- financing of the structures on the basis of the services actually performed and calculated at rates to be defined at the regional level (DRGs).

133. Mention should also be made of the following significant measures introduced in the last five years:

- Law No. 492 of 4 December 1993, which regulates hospital construction and provides for the cessation of the effects of the Mariotti Law on hospital organization as from the end of 1996 onwards;

- Law No. 549 of 1995 (Budget Law) which calls for a prior plan to be agreed between region and local health unit to govern the provision of the latter's services;

- the Prime Minister's Decree (DPCM) of 19 May 1995 instituting the Public Service Charters;

- Law No. 382 of 18 July 1996 setting out the principles for restructuring the hospital network by December 1999;

- Law No. 662 of 1996, which envisages the reduction of the number of hospital beds in operational units that in the course of the last three years had an occupancy rate of less than 75 per cent.

134. The constant and gradual evolution in a positive direction of the health sector will now be further illustrated with specific data relating to a number of important aspects: the downturn in the number of stillbirths and infantile mortality, better child health in general, improvement in the fields of environmental and industrial hygiene, prophylaxis, cure and control of epidemic, endemic, occupational and other diseases, ensuring the availability of medical services and assistance in case of illness.

135. A number of statistical tables relating to the aspects just set out will be found in the appendix.

Infant mortality

136. Estimates of infant mortality prepared by the World Health Organization indicate that by the year 2000 the number of stillbirths throughout the world will amount to less than 20 per 100 live births.

137. As far as Italy is concerned, the data so far recorded show that the country is positioned well below the average world level: between 1980 and 1995, in fact, the rates of perinatal and infantile mortality passed, respectively, from 17.5 per cent to 9.4 per cent and from 14.4 per cent to 6.2 per cent; nevertheless, these statistics also provided a very clear illustration of the imbalance that distinguishes the percentages in the northern parts of the country from their counterparts in the south.

138. With a view to ensuring a more incisive intervention in connection with infant mortality, the aforementioned National Health Plan for the three-year period 1994-1996 provides for the drawing up of an appropriate target project (*progetto obiettivo*) known under the name of "Mother-and-child protection". The preparatory phase of the project took due account of various types of data recorded during the period 1980-1995: the death rate of women in childbirth passed from 13.3 per cent to 4.5 per cent, the fertility rate diminished from 48.1 per cent to 38.3 per cent, and average number of children per woman nosedived from 1.68 to 1.19.

139. The project sets out to attain such general ends as prevention and health education, prevention and control of genetic pathologies (together with infantile tumours, leukemias, chronic kidney insufficiency, immunodeficiency, and hypothyroidism), the proper functioning of the services in both ordinary and emergency cases in all parts of the country, improvement of the ambulatorial and semi-home services, dehospitalization of the pediatric services by all-round improvement of the network of consultory clinics.

140. A first concrete realization associated with the project is represented by the setting up within the Ministry of Health of a Study Commission for assistance in pregnancy, childbirth and the perinatal period. Over and above this, mention should also be made of a number of more general interventions in matters of information and health education in the mother-and-child sector; the Infancy Plan Programme, which is intended to safeguard the health of the child by according priority treatment to three topics - abuse of children, infantile obesity and non-compulsory vaccinations, and the Women's Welfare Programme, which seeks to safeguard the health of women in relation to such matters as contraception, pregnancy, prevention of tumours in the female genital sphere, and menopause.

Environmental and industrial hygiene; epidemic, endemic, occupational and other diseases

141. The Government's interventions for the purpose of assuring improvement of various aspects of environmental and industrial hygiene and, more particularly, in the prevention and cure of particular pathological conditions were implemented on the basis of data relating to the Italian population set out in the first compendium of the National Health Service for the period 1991-1995.

142. Particular attention had to be paid to health needs in connection with such particular pathologies as and the various forms of drug addiction. A basic role in this sector is played by the Office for Drug Addiction and Abuse and AIDS instituted by means of Law No. 612 of 26 June 1990 and intended to collect information about the epidemiological aspects of drug addiction and correlated pathologies, as also about the activities performed by the public services for drug addiction in connection with the cure and rehabilitation of subjects suffering from drug problems.

143. Turning now to AIDS, which became an infectious illness subject to obligatory notification following Ministerial Decree No. 288 of 28 November 1986, the data show that 31,819 cases were ascertained during the period 1982-1995. Three and a half per cent of the patients concerned were foreigners and 79 per cent of them were males; 64.5 per cent of the cases were drug addicts, the disease being transmitted both by the use of infected syringes and the ingestion of drugs, while 26.2 per cent were attributed to transmission by sexual relations and another 2 per cent were caused by blood transfusions.

144. The data relating to drug addiction were collected by appropriate public services (known as SERT). An analysis of these figures shows that the number of people who availed themselves of these services stands at 121,667, the principal age group affected by the phenomenon is the one from 20-34 years (82 per cent), while the most frequently used drugs are heroin (85.95 per cent), the cannabinoids (7.98 per cent) and the amphetamines (0.29 per cent) (see the tables in appendix).

145. Mention should also be made of some interesting initiatives undertaken in this sector between 1995 and 1996. The fifth information and education campaign, which was carried out in conjunction with the launching of a free telephone service that has since become known as DROGATEL that can be reached by dialling 167-16600, the publication of four issues of the "Bulletin for Drug Addiction and Alcoholism" with articles that came to grips with the social, medical and normative aspects of the subject and, lastly, the fact-finding activities of the previously mentioned Office for Drug Addiction and Abuse and AIDS, which aimed at ascertaining the functionality and efficacy of the various therapeutic communities registered in the appropriate regional albums and at work in all parts of the country.

146. The last annotation under this heading should be dedicated to the procedure for converting Law Decree No. 20 of 18 January 1996 into a law entitled "Urgent Dispositions for the Implementation of Consolidation Act No. 309/1990 on Drug Addiction". A particularly important provision of this law is the transfer to the regions of 75 per cent of the sums that were previously allocated according to the means available in the National Intervention Fund for the Fight against Drug Addiction; distribution is to be based on two principal indicators, namely the number of inhabitants of the region and incidence of drug addiction.

Ensuring medical services and medical assistance in case of illness

147. Ensuring health assistance represents a field in which revision and overhaul of the competent organs and structures has been implemented, in

accordance with the new modalities and interventions envisaged by the National Health Plan for the three-year period 1994-1996. The said plan, first of all, establishes two fundamental elements that are henceforth to characterize and underlie the concession of services in the health sector:

- the district, i.e. the organ responsible for providing continuous assistance in the course of the life of the citizens; it has the principal task of administering the following basic services: function of supporting the family doctor, integrated at-home assistance, at-home hospitalization activities, coordinated management of access to the services; and

- emergency services, rendered operative by means of an appropriately organized territorial network, to ensure an efficient response to the acute health needs of the citizens.

148. Side by side with this intervention typology, the plan also envisages rehabilitation activities, which are to be realized in accordance with a scale consisting of three action levels, and the administrative experimentations concerning the payment and remuneration modalities of the health services in operation. Among the actions planned in connection with the treatment of certain emerging pathologies, mention should here be made of prevention and cure of oncological illnesses, transplants of organs and tissue, assistance to chronic nephropathic patients, which undoubtedly confer even greater value upon the contents of the plan and constitute an indispensable instrument for keeping abreast with pathology evolution and the needs and demands of the citizens to see their health protected and safeguarded and thus attaining the goal of a high physical and mental quality of life.

149. If we now turn to consider hospital assistance and expenditure, the data furnished by the first Compendium of the National Health Service for the period 1991-1995 prove to be particularly useful. Indeed, these statistical data bring out a sufficiently complete picture of the subject matter, which can be readily compressed into the following two aspects:

- hospital supply: within the national territory there are at present in operation 990 public hospitals, 65 private clinics and 68 psychiatric institutes, the latter a residue destined to be closed down or converted not later than 31 December 1996, providing an overall availability of 375,000 public and private beds (i.e. 5.4 beds per 100 inhabitants);

- hospital demand: estimates suggest 9.5 million hospitalizations per annum, i.e. a daily average of 27,000 cases, or 154 hospitalizations per 1,000 inhabitants in public structures and a further 18.9 per 1,000 inhabitants in approved private structures, for a total of 98 million patient days in hospital and almost 3 million surgical operations in a year, the equivalent of about 8,000 per day. As far as the expenditure aspects are concerned, Law Decree No. 502 of 1992 established that the funding was to be charged partly against the National Health Fund, i.e. to be borne by the State budget, with the remainder to be covered

partly by assistance contributions, which as from 1 January 1993 onwards are to be borne by the regions, and partly by regional self-finance, a procedure that envisages also a contribution to be made by the citizens concerned.

150. Over and above the programme set out in the plan, the period under review also saw the implementation of other important legislative measures in a sector that has to be subjected to continuous reviews and overhauls if optimal service is to be assured for the user public. Among the principal measures under this heading we would recall the following:

- the Decree of the President of the Republic dated 7 April 1994 to approve the target project "Safeguarding Mental Health 1994-1996". Precisely with a view to coming to grips with the regional differences characteristic of the mental health situation, this decree proposes an intervention pattern intended to rationalize utilization of the sectoral resources and activate suitable mechanisms for controlling the work of the subjects active in this sector and, further, to create an adequate structural network consisting of various functional units: the Mental Health Department, the Mental Health Centre, the Psychiatric Diagnosis and Cure Service, the residential structures of the Day Hospital and the Day Centre;

- the monitoring programme drawn up by the SAR Nucleus: following analysis of the normative and programming configuration, it is proposed to use this instrument for intervening in the departmental organization of the Territorial Psychiatric Services and the implementation of the proposed conversion of the residual psychiatric institutes into Assistential Health Residences and Therapeutic Rehabilitation Communities within the time limits set by Law No. 724/1995;

- the issue by the Minister of Health of the Orientation and Coordination Paper regarding the tasks of the local health units in connection with certain classes of handicapped people (Decree of the President of the Republic dated 24 February 1994 in implementation of Law No. 104 of 5 February 1992 concerning assistance, social integration and the rights of handicapped people). The document sets out the precise manner in which the local health units are to intervene in the preparation of the so-called functional diagnosis, the functional dynamic profile and the individualized educational plan for handicapped patients who have to be integrated in a school structure;

- the ordinances of the Minister of Health dated 15 November 1996 and 7 February 1997. The former concerns health benefits that have to be provided for foreigners temporarily present in Italy, while the latter makes it possible to extend this discipline for a period of 90 days.

Article 13

151. As regards the contents of article 13 of the Covenant, it should be said first of all that, notwithstanding the fact that numerous reform projects have recently been produced in Parliament and Government offices, the Italian school system retains its original structure. The reform projects set themselves the principal task of updating the entire Italian scholastic apparatus, paying particular attention to a gradual reduction of the number of teachers, a goal that is clearly correlated with the demographic situation and the consequent inevitable downturn in the student population.

152. The present Italian school system is characterized by an organization that consists of the following cycles:

- nursery school (three years, for children from 3 to 6 years of age);
- primary or elementary school (five years, for children from 6 to 11 years of age);
- first-level secondary school or secondary education (three years, from 11 to 14 years of age);
- second-level secondary school or higher secondary education (from three to five years, according to the type of study chosen).

153. Further, the Italian school structure may be said to be based on three key principles:

- compulsory schooling: which applies as regards elementary and first-level secondary education (a diagram illustrating the present Italian school system is included in appendix);
- no-fee schooling: this matter is governed by Law Decree No. 297 of 16 April 1994 - Consolidation Act of the legislative dispositions regarding education, which established the principle that "no fees may be imposed nor may any other contributions be requested" in respect of either registration for or attendance of either primary or first-grade secondary school (arts. 143 and 176). As regards elementary school more particularly, the said Consolidation Act envisages that "text books for the students, including special books for the blind, shall be supplied free of charge by the municipalities in accordance with modalities to be established by means of regional laws" (art. 156).
- accessibility: article 34 of the Constitution establishes the principle according to which schooling is open to all, including foreigners. Indeed, it is envisaged that the children of foreigners resident in Italy who are citizens of a member State of the European Community may be entered in a class of obligatory school immediately following - in terms of years of study - the one they have attended in their country of origin (article 115 of the Consolidation Act). Schools that accept students of this

category must plan their syllabuses in such a way as to comprise appropriate supporting and integrating activities for them with a view to:

- adapting the teaching of the Italian language and the other subjects to their particular needs; and

- promoting the teaching of the language and the culture of the country of origin, coordinating them with the teaching of the compulsory subjects included in the study plans.

154. Similarly, school integration is envisaged for students from outside the Community, who are to benefit from "specific integrative teaching in their language and culture of origin" (article 116 of the Consolidation Act).

155. In this connection, moreover, particular importance attaches to Ministerial Circular No. 205 of 26 July 1990 regarding the insertion of foreign students in the compulsory schooling system. The circular is noteworthy, above all, on account of its introduction of the concept of intercultural education. Indeed, the text notes that "the primary objective of intercultural education can be delineated as promotion of the capacity of living together in a constructive manner in a multiform cultural and social tissue" and that every intervention in this ambit "even in the absence of foreign students, tends to treat the various disciplines in such a manner as to forestall the formation of stereotypes and prejudices vis-à-vis persons and cultures and to overcome every form of ethnocentric approach, realizing an educational action that will confer concrete shape upon human rights by understanding and cooperation between peoples in a common aspiration for development and peace".

156. This circular was followed by two others: No. 138 of 27 April 1993 concerning "Intercultural education as a means of preventing racism and anti-Semitism" and No. 73 of 2 March 1995 concerning "Intercultural dialogue and democratic living together: commitment of the school system". Both these circulars underscore the importance of introducing the concept of interracial tolerance at school as a means of getting the student to understand, right from the very first beginnings of their learning phase, the importance that in modern society attaches to solidarity between different cultures and traditions.

Basic education

157. On the basis of the provisions of articles 137 and 169 of the previously mentioned 1994 Consolidation Act regarding education, the school year 1995/96 saw the activation throughout the national territory of 460 literacy courses and some 2,000 experimental secondary school courses for adult workers designed for achieving a school-leaving certificate, as also 78 places in elementary school classes organized in 19 hospitals. Unfortunately, the data regarding the secondary school courses are not yet available, but it should here be added that, even before the coming into force of Law No. 104 of 1992, the Directorate General for First-Grade Secondary Schooling had already

activated experimental secondary school courses at a number of major hospitals (as the current school year is concerned, these experimental courses are available at nine hospitals).

158. It should also be mentioned that Law No. 104/1992 (Framework law for the handicapped) envisages the institution of elementary and secondary school classes at hospitals that temporarily include handicapped minors among their patients and also lays it down that these classes may also accommodate minors who are not affected by handicaps but are nevertheless hospitalized for a period exceeding 30 days of lessons.

159. Looking at the situation in more general terms, the development of the school system must not remain anchored to mere enouncements of principle: the Italian school system has to be defined as "a community that interacts with the wider social and civic community" and therefore as an institution that seeks to transmit and elaborate culture and to promote the participation of young people in this process.

160. The school system must give the student the possibility of becoming part of a project of social formation in the truest sense of the term (article 3 of the Constitution), by virtue of the insertion in secondary school instruction of such disciplines as health education (Law No. 162/1990), education in road behaviour, traffic and safety (Law No. 285/1992), and civic education (Directive No. 58 of 8 February 1996). Adoption of the latter legislative instrument undoubtedly represents a confirmation of the value of the school as an instrument for a better knowledge and understanding of our State structure: in fact, the directive envisages the insertion in the syllabuses of all the first- and second-level secondary school of the discipline of civic education and all the various initiatives envisaged in the Institute Education Projects in connection with this subject in accordance with particular programmes to be drawn up by and appropriate Study Committee.

161. Encouragement of school system development was also made possible, especially as far as the compulsory part of the system is concerned, by Law Decree No. 297 of 1994, which provided for the institution of elementary and secondary school courses in corrective institutes and prisons (arts. 135 and 171); the data furnished by the Directorates General concerned with this aspect highlight the fact that during the school year 1995/96 elementary school courses were activated at 10 penal institutes for minors and secondary school courses at as many as 19, and that this was accompanied by the institution of 250 positions for adult-education teachers in prisons.

162. A number of other aspects relating to the Italian school system are illustrated by the statistics reproduced in the appendix.

163. Particular mention should here be accorded to the contents of the third paragraph of article 13, which comes to grips with the topic of the parents' freedom to choose the type of moral and religious education that their children are to receive. The most recent Italian legislation regarding these matters fully guarantees to assure the religious and moral education of their offspring in accordance with their own convictions. Quite apart from the fact that the Constitution guarantees freedom of conscience, religion and belief for all (arts. 3, 19 and 21), all pertinent regulations are always agreed with

the religious confessions directly concerned. In particular, the Concordat with the Roman Catholic Church provides that the State is to assure that all the students who - either directly or through their parents or guardians - express the wish to receive instruction in the Catholic religion shall have the opportunity of attending appropriate lessons on a voluntary basis. The understanding (agreements) stipulated with the other religious faiths (Waldensians, Methodists, Adventists, Pentecostals, Baptists, Lutherans, Jewish communities) provide that the Republic, in guaranteeing the pluralist character of school, shall make it possible for representatives of these faiths to respond to the requests of students and their parents "in relation to study of the religious fact and its implications", but also recognizes the right of the students of all the public schools not to avail themselves of any religious teaching (Laws No. 206/1985, No.449/1984, Nos. 516 and 517/1988 and No.101/1989; Presidential Decrees No. 751/1985, No. 350/1987 and No. 202/1990).

Article 15

164. Turning now to the very ample contents of article 15 of the Covenant, there is one aspect that should be put in particular relief: the Italian Government recently concluded an action intended to ensure effective safeguarding of cultural assets of religious interest when the Minister of Cultural Assets and the President of the Catholic Episcopal Conference put their signatures to an important "understanding". This document promotes closer collaboration between State and Church for the conservation, protection and utilization of the Church's extremely important historical, artistic and archival patrimony; parallel understandings are about to be reached with the other religious faiths. Italy is the sole country in Europe (and perhaps in the world) that safeguards this category of assets of exceptional value, collaborating with the interested parties and harmonizing protection with the cultural, religious and cultural needs of the churches and religious faiths.

Statistical appendices*

1. Age structure of the population as of 1 January 1995.

2. Stillbirths and perinatal and infantile mortality in Italy - 1983-1992.

3. Voluntary interruptions of pregnancy in the period 1982-1994.

4. Average lifespan: breakdown by sex.

5. People registered with the labour exchanges for more than 12 months (men and women) as of April 30 of each year - 1988 to 1996.

6. Regional breakdown of ratio between resident population of working age and people registered with the labour exchanges, September 1994-September 1996 (in figures and graphical representation).

7. People registered with the labour exchanges - Breakdown by major geographic area and registration class - percentage variations, June 1995-June 1996 - Breakdown by age group and sex - percentage variations, June 1995-June 1996.

8. Young people employed on the basis of labour-training contracts - 1987 to 1995.

9. Supervision of the work of minors - national summary 1995

10. Supervision of the work of minors - national summary 1994

11. Accident cases in industry and agriculture for which an indemnity was granted by 31 December of the year following the date of the accident.

12. Occupational disease pensions in industry as of 31 December 1995 - breakdown by type of occupational disease.

13. Entry authorizations granted to reunite families - January to October 1996.

14. Regularizations ex Article 10 of Law Decree No. 477 of 13 September 1996.

15. Service for the problems of immigrant workers from outside the Community and their families - third quarter 1995.

16. Crowding index: breakdown by family composition - Italy, 1984 and 1993.

17. Heating system in home: breakdown by family composition - All-Italy and territorial distribution, 1993.

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* The appendices may be consulted in the files of the Office of the High Commissioner for Human Rights.

18. Current health expenditure as percentage of GDP - 1989 to 1995.

19. Net per capita drug expenditure in Italy and the regions - 1994. Drug expenditure in Italy. Data expressed in constant 1995 lire - 1989 to 1995.

20. Regional distribution of hospitals - 1995.

21. Hospitalizations in public and private hospitals (exclusive of residual psychiatric hospitals) in 1993, patient/days in 1993 and variation with respect to 1983, average duration of stay in 1993 and variation with respect to 1983.

22. The three principal causes of death: breakdown by age group, with figures expressed as absolute values and percentages of total deaths in each group. Males, Italy 1992.

23. The three principal causes of death: breakdown by age group, with figures expressed as absolute values and percentages of total deaths in each group. Females, Italy 1992.

24. Resident population in Italy: breakdown by region and major geographic area as of 1 January 1995.

25. Foreign students in Italian elementary schools (State schools and others): breakdown by region of insertion. School years 1991/92, 1992/93 and 1993/94.

26. Regional distribution of elementary school classes with foreign students and average presence per class.

27. Foreign students in Italian secondary schools (State schools and others): breakdown by region of insertion and continent of origin. School years 1992/93 and 1993/94, absolute values.

28. Foreign students in Italian secondary schools (State schools and others): breakdown by region of insertion and continent of origin. School years 1992/93 and 1993/94, percentage values.

29. Foreign students in Italian institutions of higher education (State and others): breakdown by region of insertion. School years 1992/93 and 1993/94.